



**GULKOWITZ BERGER LLP**

544 Oak Drive

Far Rockaway, NY 11691

212-208-0006

718-744-9708 (fax)

November 1, 2024

**BY ELECTRONIC FILING**

Jessica G. L. Clarke, United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1040  
New York, NY 10007

**MEMO ENDORSED**

**Re: Rosenberger et al v. Banks et al, 1:24-cv-06334-JGLC**

Dear Hon. Jessica G. L. Clarke, United States District Judge:

We are counsel for plaintiffs in the above-referenced action (“Plaintiffs”). I write with the consent of counsel for defendants in the above-referenced action (“Defendants”), who has asked to make the requests joint requests.

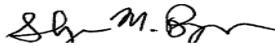
Counsel for Plaintiffs and Counsel for Defendants respectfully request an adjournment and waiver of the initial pretrial conference currently scheduled for November 6, 2024. In connection with this request, we are also jointly requesting waiver of the requirement to submit a Joint Letter and Civil Case management Plan and Scheduling Order as was ordered by the Court on August 27, 2024. This is the first such request.

The reason for this request is because this is the type of action that the parties believe will not require discovery and can be decided on motions for summary judgment. This is an action appealing a decision by the New York Office of State Review that reversed an award of tuition funding for plaintiffs’ denial of Free and Appropriate Public Education (“FAPE”) claim under 20 U.S.C. §1400 et seq. As such, this is the type of matter that can be decided on papers based on the record of the case that was before the New York Office of State Review.

Based on the above, Counsel for Plaintiffs and Counsel for Defendants respectfully request: (a) an adjournment and waiver of the November 6, 2024, initial pretrial conference; (b) waiver of the requirement to submit a Joint Letter and Civil Case management Plan and Scheduling Order as was ordered by the Court on August 27, 2024; (c) to be able to submit to the Court a proposed briefing schedule for the anticipated motions for summary judgment no later than November 6, 2024; and (d) waiver of the requirement to submit a statement pursuant to Local Rule 56.1 in connection with the anticipated summary Judgement Motions.

We thank the Court for their consideration of this matter.

Respectfully,



Shaya M. Berger

cc: Bryn Ritchie, Esq. (email)

Application GRANTED in part and DENIED in part. The initial pretrial conference set for November 6, 2024, and the deadline to submit a Joint Letter and Civil Case Management Plan and Scheduling Order are ADJOURNED *sine die*.

The request to waive submission of Rule 56.1 statements is DENIED. By no later than **November 8, 2024**, parties shall submit a proposed briefing schedule for the anticipated motions for summary judgment, which will include Rule 56.1 statements. As the Court has yet to receive the underlying administrative record, parties are also ordered to update the Court on the status of the underlying administrative record by **November 8, 2024**.

SO ORDERED.



JESSICA G. L. CLARKE  
United States District Judge

Dated: November 4, 2024  
New York, New York